

E-filing

FILED
A

2007 JUL -2 AM 9:04

RICHARD H. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 SCOTT N. SCHOOLS (SC 9990)
United States Attorney

2 W. DOUGLAS SPRAGUE (CSBN 202121)
3 Acting Chief, Criminal Division

4 STEPHEN G. CORRIGAN (MASBN 100560)
5 Assistant U.S. Attorney

6 1301 Clay Street, Suite 340S
7 Oakland, CA 94612
Telephone: (510) 637-(3701
Telefax: (510) 637-3724
E-mail: stephen.corrigan@usdoj.gov

8 Attorneys for the United States

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 OAKLAND DIVISION

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 JAY MILLER,

16 Defendant.

17 CRIMINAL NO.

18 07-70391 WDB

19 NOTICE OF PROCEEDINGS ON
OUT-OF-DISTRICT CRIMINAL
CHARGES PURSUANT TO RULES
5(c)(2) AND (3) OF THE FEDERAL RULES
OF CRIMINAL PROCEDURE

20 Please take notice pursuant to Rules 5(c)(2) and (3) of the Federal Rules of Criminal
Procedure that on July 1, 2007, the above-named defendant was arrested based upon an arrest
warrant (copy attached) issued upon a criminal complaint pending in the District of New
Hampshire, Case Number 07 MJ 41-01.

21 In that case, the defendant is charged with a violation of Title 18, United States Code, Section
22 2314, Interstate transportation of stolen property with a value of \$5,000 or more. The maximum
23 penalties for the violation are: 10 years imprisonment, 3 years supervised release,
24

25 //

26 //

27 //

28

1 \$250,000 fine, and a special assessment of \$100.

2

3 Respectfully Submitted,

4 SCOTT N. SCHOOLS
5 UNITED STATES ATTORNEY

6 Date: July 2, 2007
7 STEPHEN G. CORRIGAN
8 Assistant U.S. Attorney

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

AO 442 (Rev. 5/93) Warrant for Arrest

United States District Court

DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

v.

Jay Miller

WARRANT FOR ARREST

CASE NUMBER: 07 mj 41-01

To: The United States Marshal
and any Authorized United States OfficerYOU ARE HEREBY COMMANDED to
arrest _____

Jay Miller

Name _____

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

 Indictment Information Complaint Order of court Violation Notice Probation Violation
 Petition

charging him or her with (brief description of offense)

Interstate transportation of stolen property

CERTIFIED TO BE A TRUE COPY
JAMES R. STARR, CLERK

BY: _____

Deputy Clerk
Wilcox

In violation of

Title(s) _____

18

United States Code, Section(s) 2314

Name of Issuing Officer
*James E. Muirhead*Signature of Issuing Officer
*James E. Muirhead*U.S. Magistrate Judge
Title of Issuing OfficerDate and Location
6/29/07 Concord, N.H.

Bail fixed at \$ _____ by _____ Name of Judicial Officer

RETURN

This warrant was received and executed with the arrest of the above-named defendant at _____

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

AO 91 (Rev. 5/85) Criminal Complaint

U.S. DISTRICT COURT
DISTRICT OF N.H.
FILEDUnited States District Court
DISTRICT OF NEW HAMPSHIRE

2007 JUN 29 P 1:34

UNITED STATES OF AMERICA

v.

Jay Miller

(Name and Address of Defendant)

CRIMINAL COMPLAINT

CASE NUMBER: 07-17141-01

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about February 17, 2007 in Carroll county, in the District of New Hampshire defendant(s) did, (Track Statutory Language of Offense)

unlawfully transport and cause to be transported in interstate commerce from the State of New Hampshire to the State of California, articles which were stolen, to wit, antique books and artifacts with a value of \$5,000 or more, knowing the same to have been stolen

In violation of Title 18 United States Code, Section(s) 2314

I further state that I am a(n) Special Agent, FBI and that this complaint is based on the following facts:

See attached Affidavit

CERTIFIED TO BE A TRUE COPY
JAMES R. STARR, CLERKBY: M. Muirhead
DEPUTY CLERK

Continued on the attached sheet and made a part hereof:

 Yes NoPauline B.

Signature of Complainant

Sworn to before me and subscribed in my presence,

June 29, 2007Date
James R. Muirhead
United States Magistrate Judge

Name & Title of Judicial Officer

at Concord, New Hampshire
City and State

Signature of Judicial Officer

AFFIDAVIT

I, Paul W. Brown, being duly sworn, do hereby state as follows:

I. Introduction

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) assigned to the Bedford, New Hampshire Resident Agency Office. I have been employed as such since January 2006. My employment with the FBI has vested me with the authority to investigate violations of federal laws, including violations of Title 18, United States Code, Section 2314, interstate transportation of stolen property.

2. I submit this affidavit in support of an application for an arrest warrant for Jay Miller, [REDACTED]

[REDACTED] with a mailing address of 1474 University Avenue, Suite 218, Berkeley, California 94702-1509.

3. The information contained in this affidavit is based upon my experience and training as a Special Agent, personal observations and knowledge, my conversations with other investigators assigned to this investigation, as well as witness interviews and my review of relevant reports.

4. The statements contained in this affidavit are based upon my investigation, information provided to me by other police officers, FBI agents, and other personnel specially trained in the seizure and analysis of computers and electronic media, and on my experience and training as a Special Agent of the FBI. Because this affidavit is being submitted for the

limited purpose of establishing probable cause to support the issuance of an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts which I believe are necessary to establish probable cause to believe a violation of Title 18, United States Code, Section 2314 has been committed by Jay Miller.

II. Investigation

5. Between 02/16/2007 at approximately 1:00pm and 02/17/2007 at approximately 2:00pm, a large quantity of rare books and antiquities were stolen from the estate of the late William Ernest Hocking (1873 - 1966), who was a professor of philosophy at Harvard University. The estate is located at 93 Downs Road, Madison, NH 03849 and consists of multiple buildings.

6. The Hocking family has consulted with Peter Haack of Newburyport, Massachusetts. Mr. Haack, who has been in the used and rare book business for over 35 years, is personally familiar with the family and the estate. Mr. Haack has estimated the aggregate value of stolen items as well into hundreds of thousands of dollars. The theft of the catalog system from the library, and shuffling of books among all of the shelves has made compilation of the list of missing items laborious and time consuming. The list of both missing and recovered items continues to be refined.

7. Some of the more valuable stolen works of philosophy include:

Aquinas, Thomas. De Rebuspublicus et

Principum Institutione, 1643

Augustine. Meditations of St. Augustine,
translation by George Stanhope. 1720

Butler, Joseph. Works. Oxford: Clarendon
Press, 1820 (from the library of J.H. Huxley)

Butler, Joseph. Sermons of Joseph Butler.
Oxford: Clarendon Press, 1816 (from the
library of J.H. Huxley)

Churchill, Awnsham. Two Treatises of
Government. 1690

Clarke, Samuel. Discourse Concerning Several
Tracts on Various Subjects. Dublin: George
Faulkner, 1752

Condillac. Logique, La Paris: 1786

Condillac. Traite Des Sensations. London:
1754 (volumes 1-3, from the library of
William James)

Cudworth, Ralph. True Intellectual System of
the Universe. (18th century)

Cudworth, Ralph. Treatise Concerning Eternal
and Immutable Morality. London: Knapton,
1731

Descartes, Rene. Epistolae, parts 1-3.
Amsterdam: Blau, 1682 (3 volumes)

Descartes, Rene. Philosophia Su Dissertatio
De Methodo. Amsterdam: Elzevir, 16??

Descartes, Rene. Discourse of a Method.
London: Thos. Newcomb, 1649

Geneve, A. Examen du Prince de Machiavel.
1759

Glanvilla, Ranupho de. Tractatus de Legibus
and Consuetudini. Thos. Wright, 1604

Malebranch. Search After Truth. London: L.
Litchfield, 1694

Malebranch. De Recherche de La Verita,

Paris: 1762

Hobbes, Thomas. Philosophical Rudiments Concerning Government and Civil Society.
London: R. Royston, 1651

Spinoza, Benedictus. Tractatus Theologico-Politicus. 1674

Tacitus. Opera C. Cornelli Taciti.
Amsterdam: Blau, 1685

Wollaston. Religion of Nature Delineated.
London, one copy a Fifth Edition, 1759, one copy a Second Edition, 1724

Verulam, Francis. Essays. London: John Beale, 1639

Wolf, Christian. Psychologia Empirica.
Verona: Dionysii Ramanzini Bibliopolae Apud S. Thomam, 1736

Compendium of the Art of Logick and Rhetorick. London: Thos. Maxey, 1651

Fable of the Bees. London: Tenson, 1728
(from the library of William James)

Terms of Common Law (Les Termes de la Ley).
London, 1629

8. On 02/16/2007 at approximately 1:00pm, Joanna Wiley, great-granddaughter of William Ernest Hocking, checked on the estate. Although the roads had been plowed following a heavy snowfall, none of the snow around any of the buildings of the estate was disturbed. Joanna Wiley did not exit her vehicle and enter any of the buildings to investigate further.

9. On 02/17/2007 around 2:00pm, Joanna Wiley and Jennifer Wiley, Joanna's mother, visited the estate. Footprints were visible in the snow around several of the buildings. Both Joanna and Jennifer investigated the footprints, walking over

them and also entering each of the buildings. Joanna and Jennifer discovered that several of the buildings had been broken into with many objects of art and rare books taken. Joanna and Jennifer then returned to their residence in Freedom, New Hampshire and called the Madison Police Department, informing them of the burglary and theft.

10. Later that day, a Madison Police officer arrived at the estate to find Jennifer Wiley and Teresa Swanick, friend and roommate of Jennifer. The officer noticed trampled snow leading to each of the buildings, but the foot traffic of Jennifer, Joanna, and Swanick made only one impression from an unknown subject visible. This impression was photographed by the Madison Police Department. The area and buildings were photographed by the Madison Police Department, but no fingerprints or other physical evidence was recovered at the scene.

11. Investigation of the library revealed that the door had been pulled open. The latch securing the door apparently had not been securely seated into the door frame, allowing it to be pulled open. Impressions appearing to be that of a plastic sled appeared along the footpath leading from the library, suggesting that this had been used to transport the stolen items from the library. The bulk of the stolen material was taken from the library. Items taken from the library include mostly rare and valuable books, but also included various objects of art and other antiquities in addition to the card catalog

system documenting the library's contents.

12. Investigation of a stone house next to the library revealed that a glass pane had been broken in the front door beside the handle and lock. Clothing had been stuffed into the open hole, and the broken glass and snow was cleaned up and discovered in the trash can inside the kitchen, just past the main door. An unknown amount of items and books were taken from the stone house, and snow had been tracked throughout the first and second floors. On the second floor, the bottom drawer of a bureau had been pried open and unknown objects taken.

13. Investigation of the shed revealed that a wooden panel beside where the latch is on the inside was punched out, permitting the intruder to open the door. This suggested a familiarity with the residence, given that the latch is not visible from outside and is not beside the door handle. Three books are known to have been taken from the shed.

14. Investigation of the farm house on the property revealed that someone had entered the building and walked around, evidenced by snow having been tracked throughout the inside. No items are known to have been taken from this building.

15. This is the first winter that Joanna and Jennifer Wiley have not resided on the estate. Since the estate is not currently occupied, either Joanna or Jennifer check on its condition each day around 1:00pm.

16. With the foot traffic following indirect routes around the estate typically taken by the family members, but

which are not obvious when covered by snow, the apparent knowledge of the door latch to the shed, and of the library layout and contents, it appears that someone with familiarity of the estate committed the burglary and theft of the Hocking Estate.

17. On 03/05/2007, the Chief John Pickering, Madison Police Department, interviewed Jennifer Wiley and Joanna Wiley regarding the investigation. During this interview, the extended family members were identified, as well as their access to the property and interest in books.

18. At this time, Jay Miller was identified as a former paramour of Jemima Farwell, a niece of Jennifer Wiley's. Farwell and Jay Miller have a child together. Jay Miller has worked in and owned used books stores for years. Jay Miller's last visit to the Hocking Estate was believed to have been around six years ago. During that visit, Jay Miller expressed a keen interest in the library and wanted the family to do something with the books. Also during this visit, Jay Miller admitted that while he and Jemima Farwell lived together in Vermont, he had stolen some of the books from the Hocking library and sold them to see how much he could get for them. The family never pressed charges or reported this to the police.

19. On 03/22/2007, the Madison Police Department received 24 Office Depot boxes (12" x 15 1/2", document boxes) from zip code 89123 with Pitney Bowes meter number 004160075. 20 of the boxes' post marks were dated 03/10/2007 and four were dated

03/15/2007. Each box had matching, printed, address and return address labels which read as follows:

CHF. JOHN PICKERING
MADISON P.D.
1923 VILLAGE RD.
Madison, NH 03849
RE: Downs Road

20. The boxes contained 444 of the stolen books from the burglary at the Hocking Estate. Some of the books returned are listed in paragraph 7 above. At least 175 books remain missing. Those still missing have been identified by Mr. Haack as the most valuable, some of which he described as "priceless."

21. On 03/23/2007, the United States Postal Inspection Service advised that Pitney Bowes meter number 004160075 is registered to C&F Enterprises in the UPS Store at 7580 Las Vegas Boulevard South, Las Vegas, NV 89123, telephone number (702) 275-5860.

22. On 04/20/2007, Special Agent Brad Cadard of the FBI interviewed Matthew Kessler at his place of employment, UPS Store (#5415) located at 7580 South Las Vegas Boulevard, Las Vegas, Nevada. Kessler was working at the UPS Store on 03/10/2007 when he observed two males arrive at the store in a light blue 2003-2004 Dodge Caravan at approximately 12:00 p.m. or 1:00p.m. and they departed approximately four hours later. The first male entered the store and stated that his grandfather just died and he was sending several boxes of books back home.

23. The first male then went out to the van and began

to wipe down each book with a terry cloth and place the books into white and red boxes with the assistance of the second male. Kessler recalled that at least 14 boxes were shipped and each box had a labeled already printed for a delivery address. Both the first and second male brought the boxes into the store and Kessler was alone with each of the males on several occasions. The first male paid for the shipping charges using a Visa credit card. Both of the males also commented that they were traveling to California after leaving the store.

24. Kessler provided the following description of the first male:

Race:	White
Sex:	Male
Age:	Early 30's
Height:	5'9" to 5'10"
Weight:	230 pounds
Hair:	Brown
Eyes:	Unknown
Clothing:	Plaid shirt, khaki pants, black sunglasses

25. Kessler provided two documents that relate to the transaction, the UPS Store transaction printout and the credit card transaction receipt. Shipping charges for the boxes totaled \$317.38 and were paid with Visa credit card number 4873 0941 2886 3221.

26. On 05/23/2007 a Grand Jury subpoena was served on Wells Fargo requesting the account holder and account records of Visa credit card number 4873 0941 2886 3221.

27. On 05/29/2007, Wells Fargo provided the

information requested under subpoena related to Visa credit card number 4873 0941 2886 3221. The account holder is Jay L. Miller of 1474 University Avenue, Suite 218, Berkeley, California 94702-1509. The account statement revealed a charge of \$317.38 at UPS Store #5415 on 03/14/2007.

28. Further analysis of the account statement revealed a 02/20/2007 charge to National Car Rental in Manchester, New Hampshire. National Car Rental verified that Jay Miller rented a silver Chevrolet Trailblazer with Massachusetts registration on 02/15/2007 at 10:52 p.m. and returned it to the Manchester Airport on 02/18/2007 at 5:26 p.m. Jay Miller was the only listed driver on the rental agreement.

29. A charge at the Red Roof Inn of Loudon, New Hampshire also appeared on the account statement. The Red Roof Inn verified that Jay Miller, 1474 University Ave., Ste 218, Berkeley, CA stayed at the Inn on 02/16/2007 and was alone. Miller was believed to be driving a silver Chevrolet Trailblazer with Massachusetts registration.

30. A charge at the Briarcliff Motel in North Conway, New Hampshire also appeared on the account statement. The Briarcliff Motel verified that Jay Miller, 1474 University Ave., Ste 218, Berkeley, CA stayed at the Inn on 02/17/2007 and was alone. Miller was believed to be driving a silver Chevrolet Trailblazer with Massachusetts registration.

31. A charge of \$235.51 at the North Conway, New Hampshire Post Office appears on the account statement. Chris

Benoit, who works at the North Conway Post Office, handled this transaction. Benoit recalled that a lone, white male, appearing to be around 40 years of age came into the Post Office with a large number of old, cardboard boxes and a large quantity of books. This individual told Benoit that he was on vacation and got a great deal on the books at a yard sale. Benoit recalled that the books were mailed to California, but could not recall the address. After mailing 10 to 12 boxes, the individual told Benoit that he was going to the UPS Store to mail more packages.

32. Tom Davidson, manager of the UPS Store in North Conway, New Hampshire, was asked about any packages shipped on 02/17/2007 from his store to California. Davidson reviewed the transactions from that day and discovered that Jay Miller, 1474 University Ave., STE 218, Berkeley, CA 94702 had mailed three boxes and nine parcel post packages to his stated address on that day. Miller insured one package, stating that it was an antique clock. The packages were already sealed when Miller entered the UPS Store that day.

III. CONCLUSION

29. Based on the information contained in this affidavit, I have probable cause to believe that Jay Miller has committed the crime of interstate transportation of stolen property in violation of Title 18, United States Code, Section 2314. Accordingly, I request a warrant be issued for the arrest of Jay Miller.

Signed under the pains and penalties of perjury.

Paul W. Brown
/s/ Paul W. Brown
Paul W. Brown
Special Agent
Federal Bureau of Investigation

Subscribed to and sworn before me this 29th day of June,
2007.

James R. Muirhead
Hon. James R. Muirhead
United States Magistrate